

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WESTERN WASHINGTON**

Washington Shoe Company, a Washington) **Civil Action No.:**
Corporation)

Plaintiff) COMPLAINT

V.

ACADEMY LTD., d/b/a ACADEMY)
SPORTS + OUTDOORS, a Texas)
Partnership)

Partnership

Defendant.

COMPLAINT

JURISDICTION AND VENUE

1. This Action arises under the copyright laws for the United States, 17 U.S.C. §101 et. seq., this Court has original and exclusive jurisdiction over these claims pursuant to 28 U.S.C. §1338.

2. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) and (c).

COMPLAINT

**McCormack Intellectual Property Law
Business Law P.S.**
617 Lee Street
Seattle, WA 98109
p. 206.381.8888 / f. 206.381.1988

1
2 **PARTIES**

3 3. Plaintiff Washington Shoe Company ("Washington Shoe") is, and at all times herein
4 mentioned was, a corporation organized and existing pursuant to the laws of the state of
5 Washington and having its principal place of business at 2101 72nd Avenue S, Kent, Washington,
6 98032.

7
8 4. On information and belief, defendant Academy Ltd., d/b/a Academy Sports +
9 Outdoors ("Academy") is, and at all times herein mentioned was, a partnership organized and
10 existing pursuant to the laws of the state of Texas and having its principal place of business located
11 at 1800 N Mason Road, Katy, Texas, 77449, and does business in and has committed the acts
12 complained of in the Western District of Washington.

13
14 5. On information and belief, Academy has operated and continues to operate an
15 interactive web site at www.academy.com, wherein customers in the State of Washington and in
16 this judicial district can view products offered for sale by Academy, can order products offered on
17 the web site, and pay for ordered products via the interactive web site.

18
19
20 **COUNT I – COPYRIGHT INFRINGEMENT**

21 6. Washington Shoe herein re-alleges and incorporates paragraphs 1-5 inclusive, of this
22 complaint as if fully set forth herein.

23 7. Washington Shoe was engaged in the manufacture, design, distribution, and
24 sale of men's, women's, and children's footwear in the United States and abroad, directly or through
25 its licensees.

26 8. The products of Washington Shoe contain original material. One such product
27 is a boot incorporating artwork depicting a fanciful pattern, titled Magic Carpet.

28
COMPLAINT

McCormack Intellectual Property Law
Business Law P.S.
617 Lee Street
Seattle, WA 98109
p. 206.381.8888 / f. 206.381.1988

1
2 9. The two dimensional artwork applied to the Magic Carpet Boot was first
3 created by Washington Shoe in 2007.

4 10. Washington Shoe is the owner of United States Copyright Registration No.
5 VAU 757-022 having an effective date of registration of August 9, 2007. A true and correct copy of
6 the certificate and deposit copy are attached hereto as Exhibit A.

7
8 11. At all relevant times, Washington Shoe was and continues to be the sole
9 proprietor of all rights, title, and interest in and to the copyright rights of the Magic Carpet work
10 depicted in Exhibit A. At no time has Washington Shoe authorized defendant, Academy, to
11 reproduce, adapt, distribute, sell, perform, or display the copyrighted work.

12
13 12. On information and belief, the defendant Academy has offered for sale,
14 displayed, and distributed in interstate commerce, unauthorized copies of Washington Shoe's
15 copyrighted work for financial gain. The photograph of such unauthorized work is attached as
16 Exhibit B.

17
18 13. On June 3, 2010, Washington Shoe notified Academy of the act of infringement
19 in a letter addressed to counsel representing Academy in a previous copyright infringement matter
20 involving Academy and Washington Shoe. A copy of the letter is attached as Exhibit C.

21
22 14. On information and belief, defendant Academy has infringed, and threatens to
23 continue infringing, Washington Shoe's said copyright interest by reproducing, adapting,
24 distributing, selling, performing, or displaying the said copyrighted work.

25
26 15. On information and belief, Academy's acts of infringement were done willfully
27 with knowledge or reckless disregard of the rights of Washington Shoe.

28 16. By reason of defendant's infringement and threatened infringement of
Washington Shoes copyrights, Washington Shoe has sustained and will continue to sustain

COMPLAINT

McCormack Intellectual Property Law
Business Law P.S.
617 Lee Street
Seattle, WA 98109
p. 206.381.8888 / f. 206.381.1988

1
2 substantial and irreparable injury, loss, and damage to their rights in the copyright work.

3 17. Washington Shoe is further entitled to recover from defendant the damages
4 sustained by Washington Shoe as a result of Academy's acts of copyright infringement.
5 Washington Shoe at present is unable to ascertain the full extent of monetary damages it has
6 suffered by reason of Academy's acts of copyright infringement.
7

8 18. Washington Shoe is further entitled to recover from defendant the gains, profits,
9 and advantages Academy has obtained as a result of its acts of copyright infringement. Washington
10 Shoe presently is unable to ascertain the full extent of the gains, profits, and advantages defendant
11 has obtained by reason of its acts of copyright infringement.
12

13 **COUNT II- COPYRIGHT INFRINGEMENT**

14 19. Washington Shoe herein re-alleges and incorporates paragraphs 1-18 inclusive,
15 of this Complaint as if fully set forth herein.
16

17 20. The products of Washington Shoe contain original material. One such product
18 is a boot incorporating artwork depicting a zebra striped pattern entitled Zebra Supreme. A
19 photograph of the work is attached hereto as Exhibit D.
20

21 21. The two dimensional artwork applied to the Zebra Supreme Boot was first
22 created by Washington Shoe in 2007.
23

24 22. Washington Shoe is the owner of corrected United States Copyright
25 Registration No. VAu 1-007-893 having an effective date of registration of January 8, 2010. A true
and correct copy of the certificate and deposit copy are attached hereto as Exhibit E.
26

27 23. At all relevant times, Washington Shoe was and continues to be the sole
28 proprietor of all rights, title, and interest in and to the copyright rights of the Zebra Supreme work
29

COMPLAINT

**McCormack Intellectual Property Law
Business Law P.S.**
617 Lee Street
Seattle, WA 98109
p. 206.381.8888 / f. 206.381.1988

1
2 depicted in Exhibit D. At no time has Washington Shoe authorized defendant, Academy, to
3 reproduce, adapt, distribute, sell, perform, or display the copyrighted work.

4 24. On information and belief, the defendant Academy has offered for sale,
5 displayed, and distributed in interstate commerce, unauthorized copies of Washington Shoe's
6 copyrighted work, and has in fact sold and distributed such unauthorized copies for financial gain.
7
8 The photograph of such unauthorized work is attached as Exhibit F.

9 25. On June 3, 2010, Washington Shoe notified Academy of the act of infringement
10 in a letter addressed to counsel representing Academy in the infringement dispute with Washington
11 Shoe regarding the Magic Carpet work. A copy of the letter is attached as Exhibit G.

12 26. On information and belief, defendant Academy has infringed, and threatens to
13 continue infringing, Washington Shoe's said copyright interest by reproducing, adapting,
14 distributing, selling, performing, or displaying the said copyrighted work.
15

16 27. On information and belief, Academy's acts of infringement were done willfully
17 with knowledge or reckless disregard of the rights of Washington Shoe.
18

19 28. By reason of defendant's infringement and threatened infringement of
20 Washington Shoes copyrights, Washington Shoe has sustained and will continue to sustain
21 substantial and irreparable injury, loss, and damage to their rights in the copyright work.
22

23 29. Washington Shoe is further entitled to recover from defendant the damages
24 sustained by Washington Shoe as a result of Academy's acts of copyright infringement.
25 Washington Shoe at present is unable to ascertain the full extent of monetary damages it has
26 suffered by reason of Academy's acts of copyright infringement.
27

28 30. Washington Shoe is further entitled to recover from defendant the gains, profits,
and advantages Academy has obtained as a result of its acts of copyright infringement. Washington
29

COMPLAINT

McCormack Intellectual Property Law
Business Law P.S.
617 Lee Street
Seattle, WA 98109
p. 206.381.8888 / f. 206.381.1988

1
2 Shoe presently is unable to ascertain the full extent of the gains, profits, and advantages defendant
3 has obtained by reason of its acts of copyright infringement.
4
5

6 **PRAYER FOR JUDGMENT AND RELIEF**
7

8 WHEREFORE, the plaintiff Washington Shoe requests this Court:
9

- 10 (a) Adjudge that defendant Academy has infringed the plaintiff's copyright;
11 (b) Order the defendant Academy to deliver up for destruction all unauthorized
12 copies of the plaintiff's copyrighted work, along with any packages, wrappers,
13 advertisements, catalogs, or other publications, including derivative works of the
14 unauthorized copies;
15 (c) Award to plaintiff the defendant Academy's profits from its sale of the
16 unauthorized copies of the plaintiff's copyrighted work, together with the damages sustained
17 by the plaintiff in any such as the court shall find to be just as a result of the defendant
18 Academy's copyright infringement;
19 (d) Require the defendant Academy to pay the costs of this action together with the
20 plaintiff's reasonable attorney fees and disbursements incurred therein; an
21 (e) Award to the plaintiff prejudgment and post-judgment interest.
22
23
24

25 **DEMAND FOR JURY TRIAL**
26

27 Plaintiff Washington Shoe pursuant to Federal Rule of Civil Procedure 38(b), hereby
28 demands a trial by jury on all issues triable of right by jury.

COMPLAINT

McCormack Intellectual Property Law
Business Law P.S.
617 Lee Street
Seattle, WA 98109
p. 206.381.8888 / f. 206.381.1988

1
2 Respectfully Submitted,
3
4 WASHINGTON SHOE COMPANY
5
6
7 By its Attorneys,
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

s/ Timothy B. McCormack

Timothy B McCormack
tim@mccormacklegal.com
McCormack Intellectual Property PS
617 Lee Street
Seattle, WA 98109
Telephone (206) 381-8888
Facsimile (206) 381-1988

Of Counsel:
Peter J. Shakula
pjshakula@woodphillips.com
WOOD, PHILLIPS, KATZ,
CLARK & MORTIMER
500 West Madison Street
Suite 3800
Chicago, Illinois 60661
Telephone: 312-876-1800
Facsimile: 312-876-2020

COMPLAINT

McCormack Intellectual Property Law
Business Law P.S.
617 Lee Street
Seattle, WA 98109
p. 206.381.8888 / f. 206.381.1988